

REFERENCE TITLE: annexation; county islands

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

SB 1409

Introduced by
Senator Paton; Representative Antenori; Senator Alvarez; Representative
Fleming

AN ACT

AMENDING SECTIONS 9-471 AND 11-269.07, ARIZONA REVISED STATUTES; RELATING TO
MUNICIPAL ANNEXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-471, Arizona Revised Statutes, is amended to
3 read:

4 9-471. Annexation of territory: procedures: notice: petitions:
5 access to information: restrictions

6 A. The following procedures are required to extend and increase the
7 corporate limits of a city or town by annexation:

8 1. A city or town shall file in the office of the county recorder of
9 the county in which the annexation is proposed a blank petition required by
10 paragraph 4 of this subsection setting forth a description and an accurate
11 map of all the exterior boundaries of the territory contiguous to the city or
12 town proposed to be annexed, except that a city or town shall not file an
13 annexation petition that includes any territory for which an unsuccessful
14 annexation was attempted by the same city or town until at least forty-five
15 days after completion of the unsuccessful attempt. A property owner may
16 waive the forty-five day waiting period for the owner's property that was
17 part of the original unsuccessful annexation. Notice and a copy of the
18 filing shall be given to the clerk of the board of supervisors and to the
19 county assessor. The accurate map shall include all county rights-of-way and
20 roadways with no taxable value that are within or contiguous to the exterior
21 boundaries of the area of the proposed annexation. If state land, other than
22 state land utilized as state rights-of-way or land held by the state by tax
23 deed, is included in the territory, written approval of the state land
24 commissioner and the selection board established by section 37-202 shall also
25 be filed. For the purposes of this paragraph, "unsuccessful annexation"
26 means an annexation attempt that was withdrawn or that was not completed
27 pursuant to this section.

28 2. Signatures on petitions filed for annexation shall not be obtained
29 for a waiting period of thirty days after filing the blank petition.

30 3. After filing the blank petition pursuant to paragraph 1 of this
31 subsection, the governing body of the city or town shall hold a public
32 hearing within the last ten days of the thirty day waiting period to discuss
33 the annexation proposal. The public hearing shall be held in accordance with
34 title 38, chapter 3, article 3.1, except that, notwithstanding section
35 38-431.02, subsections C and D, the following notices of the public hearing
36 to discuss the annexation proposal shall be given at least six days before
37 the hearing:

38 (a) Publication at least once in a newspaper of general circulation,
39 which is published or circulated in the city or town and the territory
40 proposed to be annexed, at least fifteen days before the end of the waiting
41 period.

42 (b) Posting in at least three conspicuous public places in the
43 territory proposed to be annexed.

1 (c) Notice by first class mail sent to the chairman of the board of
2 supervisors of the county in which the territory proposed to be annexed is
3 located.

4 (d) Notice by first class mail with an accurate map of the territory
5 proposed to be annexed sent to each owner of the real and personal property
6 as shown on the list furnished pursuant to subsection G of this section that
7 would be subject to taxation by the city or town in the event of annexation
8 in the territory proposed to be annexed. For the purposes of this
9 subdivision, "real and personal property" includes mobile, modular and
10 manufactured homes and trailers only if the owner also owns the underlying
11 real property.

12 4. Within one year after the last day of the thirty day waiting period
13 a petition in writing signed by the owners of one-half or more in value of
14 the real and personal property and more than one-half of the persons owning
15 real and personal property that would be subject to taxation by the city or
16 town in the event of annexation, as shown by the last assessment of the
17 property, may be circulated and filed in the office of the county recorder.
18 NOTWITHSTANDING THIS PARAGRAPH, IN A COUNTY WITH A POPULATION OF LESS THAN
19 FIVE HUNDRED THOUSAND PERSONS AND IN A PROPOSED ANNEXATION INVOLVING A COUNTY
20 ISLAND, THE OWNERS OF ONE-HALF OR MORE IN VALUE OF THE REAL AND PERSONAL
21 PROPERTY OR MORE THAN ONE-HALF OF THE PERSONS OWNING REAL AND PERSONAL
22 PROPERTY MAY CIRCULATE AND FILE THE PETITIONS AS PROVIDED BY THIS PARAGRAPH.
23 For the purposes of this paragraph: ~~—~~

24 (a) "COUNTY ISLAND" HAS THE SAME MEANING PRESCRIBED IN SECTION
25 11-251.12.

26 (b) "Real and personal property" includes mobile, modular and
27 manufactured homes and trailers only if the owner also owns the underlying
28 real property.

29 5. No alterations increasing or reducing the territory sought to be
30 annexed shall be made after a petition has been signed by a property owner.

31 6. The petitioner shall determine and submit a sworn affidavit
32 verifying that no part of the territory for which the filing is made is
33 already subject to an earlier filing for annexation. The county recorder
34 shall not accept a filing for annexation without the sworn affidavit.

35 B. All information contained in the filings, the notices, the
36 petition, tax and property rolls and other matters regarding a proposed or
37 final annexation shall be made available by the appropriate official for
38 public inspection during regular office hours.

39 C. Any city or town, the attorney general, the county attorney, or any
40 other interested party may upon verified petition move to question the
41 validity of the annexation for failure to comply with this section. The
42 petition shall set forth the manner in which it is alleged the annexation
43 procedure was not in compliance with this section and shall be filed within
44 thirty days after adoption of the ordinance annexing the territory by the
45 governing body of the city or town and not otherwise. The burden of proof

1 shall be upon the petitioner to prove the material allegations of the
2 verified petition. No action shall be brought to question the validity of an
3 annexation ordinance unless brought within the time and for the reasons
4 provided in this subsection. All hearings provided by this section and all
5 appeals therefrom shall be preferred and heard and determined in preference
6 to all other civil matters, except election actions. In the event more than
7 one petition questioning the validity of an annexation ordinance is filed,
8 all such petitions shall be consolidated for hearing. If two or more cities
9 or towns show the court that they have demonstrated an active interest in
10 annexing any or all of the area proposed for annexation, the court shall
11 consider any oral or written agreements or understandings between or among
12 the cities and towns in making its determination pursuant to this subsection.

13 D. The annexation shall become final after the expiration of thirty
14 days from the adoption of the ordinance annexing the territory by the city or
15 town governing body, provided the annexation ordinance has been finally
16 adopted in accordance with procedures established by statute, charter
17 provisions or local ordinances, whichever is applicable, subject to the
18 review of the court to determine the validity thereof if petitions in
19 objection have been filed. After adoption of the annexation ordinance, the
20 clerk of the city or town shall provide a copy of the adopted annexation
21 ordinance to the clerk of the board of supervisors of each county that has
22 jurisdiction over the annexed area.

23 E. For the purpose of determining the sufficiency of the percentage of
24 the value of property under this section, such values of property shall be
25 determined as follows:

26 1. In the case of property assessed by the county assessor, values
27 shall be the same as shown by the last assessment of the property.

28 2. In the case of property valued by the department of revenue, values
29 shall be appraised by the department in the manner provided by law for
30 municipal assessment purposes.

31 F. For the purpose of determining the sufficiency of the percentage of
32 persons owning property under this section, the number of persons owning
33 property shall be determined as follows:

34 1. In the case of property assessed by the county assessor, the number
35 of persons owning property shall be as shown on the last assessment of the
36 property.

37 2. In the case of property valued by the department of revenue, the
38 number of persons owning property shall be as shown on the last valuation of
39 the property.

40 3. If an undivided parcel of property is owned by multiple owners,
41 such owners shall be deemed as one owner for the purposes of this section.

42 4. If a person owns multiple parcels of property, ~~such~~ THE owner shall
43 be deemed as one owner for the purposes of this section. NOTWITHSTANDING
44 THIS PARAGRAPH, IN A COUNTY WITH A POPULATION OF LESS THAN FIVE HUNDRED
45 THOUSAND PERSONS AND IN A PROPOSED ANNEXATION INVOLVING A COUNTY ISLAND, THE

1 PERSON WHO OWNS MULTIPLE PARCELS IS DEEMED THE OWNER OF EACH PARCEL IF THE
2 PARCELS ARE NOT CONTIGUOUS. FOR THE PURPOSES OF THIS PARAGRAPH, "COUNTY
3 ISLAND" HAS THE SAME MEANING PRESCRIBED IN SECTION 11-251.12.

4 G. The county assessor and the department of revenue, respectively,
5 shall furnish to the city or town proposing an annexation within thirty days
6 after a request therefor a statement in writing showing the owner, the
7 address of each owner and the appraisal and assessment of all such property.

8 H. Territory is not contiguous for the purposes of subsection A,
9 paragraph 1 of this section unless:

10 1. It adjoins the exterior boundary of the annexing city or town for
11 at least three hundred feet.

12 2. It is, at all points, at least two hundred feet in width, excluding
13 rights-of-way and roadways.

14 3. The distance from the existing boundary of the annexing city or
15 town where it adjoins the annexed territory to the furthest point of the
16 annexed territory from such boundary is no more than twice the maximum width
17 of the annexed territory.

18 I. A city or town shall not annex territory if as a result of such
19 annexation unincorporated territory is completely surrounded by the annexing
20 city or town.

21 J. Notwithstanding any provisions of this article to the contrary, any
22 town incorporated prior to 1950 which had a population of less than two
23 thousand persons by the 1970 census and which is bordered on at least three
24 sides by Indian lands may annex by ordinance territory owned by the state
25 within the same county for a new townsite which is not contiguous to the
26 existing boundaries of the town.

27 K. Subsections H and I of this section do not apply to territory which
28 is surrounded by the same city or town or which is bordered by the same city
29 or town on at least three sides.

30 L. A city or town annexing an area shall adopt zoning classifications
31 that permit densities and uses no greater than those permitted by the county
32 immediately before annexation. Subsequent changes in zoning of the annexed
33 territory shall be made according to existing procedures established by the
34 city or town for the rezoning of land.

35 M. The annexation of territory within six miles of territory included
36 in a pending incorporation petition filed with the county recorder pursuant
37 to section 9-101.01, subsection C shall not cause an urbanized area to exist
38 pursuant to section 9-101.01 that did not exist prior to the annexation.

39 N. As an alternative to the procedures established in this section, a
40 county right-of-way or roadway with no taxable real property may be annexed
41 to an adjacent city or town by mutual consent of the governing bodies of the
42 county and city or town if the property annexed is adjacent to the annexing
43 city or town for the entire length of the annexation and if the city or town
44 and county each approve the proposed annexation as a published agenda item at
45 a regular public meeting of their governing bodies.

0. On or before the date the governing body adopts the ordinance annexing territory, the governing body shall have approved a plan, policy or procedure to provide the annexed territory with appropriate levels of infrastructure and services to serve anticipated new development within ten years after the date when the annexation becomes final pursuant to subsection D of this section.

P. If a property owner prevails in any action to challenge the annexation of the property owner's property, the court shall allow the property owner reasonable attorney fees and costs relating to the action from the annexing municipality.

Q. A city or town may annex territory that is a county owned park or a park operated on public lands by a county as part of a management agreement if otherwise agreed to by the board of supervisors. If the board of supervisors does not agree to the annexation, the county owned park or park operated on public lands by a county as part of a management agreement shall be excluded from the annexation area, notwithstanding subsections H and I of this section. A county owned park or park operated on public lands by a county as part of a management agreement that is excluded from the annexation area pursuant to this subsection may subsequently be annexed with the permission of the board of supervisors notwithstanding any other provision of this section. For the purposes of this subsection, "public lands":

1. Has the same meaning prescribed in section 37-901.

2. Does not include lands owned by a flood control district.

Sec. 2. Section 11-269.07, Arizona Revised Statutes, is amended to read:

11-269.07. Annexation to city or town: small county islands

A board of supervisors may require annexation to a city or town of any territory of the county that consists of ~~an entire parcel that is ten~~ THIRTY acres or less and that is completely surrounded by the city or town in accordance with the following procedures:

1. Written notice of the proposed annexation and the public hearing required by paragraph 2, together with a document setting forth a description and an accurate map of the exterior boundaries of the territory to be annexed, shall be given to the city or town and mailed by first class mail to each owner of real property in the territory proposed for annexation. Notice to each owner of railroad property must be mailed to the address on file with the county assessor's office for property tax purposes. The notice shall also be posted in three conspicuous public places in the territory proposed for annexation.

2. Unless a petition is filed pursuant to paragraph 3 or a resolution is passed pursuant to paragraph 4, the board of supervisors shall hold a public hearing not less than ninety days after the notices are provided pursuant to paragraph 1 and the annexation shall become final after an affirmative vote of two-thirds or more of the board members to annex the territory.

1 3. If a majority of the real property owners in the territory proposed
2 for annexation file a written petition containing their signatures and
3 objecting to the annexation within sixty days after the notices are provided
4 pursuant to paragraph 1, the annexation shall not proceed.

5 4. If an affected city or town passes a resolution objecting to the
6 annexation within sixty days of the mailing required by paragraph 1 of this
7 section, the annexation shall not proceed. If a city or town passes a
8 resolution objecting to the annexation, the city or town shall file with the
9 clerk of the board of supervisors a copy of the resolution and shall notify
10 the real property owners in the territory by first class mail that the
11 annexation shall not proceed.